

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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**Louis M. Gerson Company, Inc.,**

**Civil No. 04-12389 (MLW/RBC)**

**Plaintiff,**

**vs.**

**3M Company,**

**Defendant.**

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**3M'S COVENANT NOT TO SUE  
PLAINTIFF FOR INFRINGEMENT BY  
PAINT SYSTEM PRODUCTS OF THE  
'179; '058; '441; '251; '681; '511; '018;  
'514; '346; '404; '521; '214; '791; '273;  
AND '795 PATENTS AS THEY  
PRESENTLY READ FOR PRODUCTS  
MADE, USED, MARKETING, OFFERED  
FOR SALE, OR SOLD ON OR BEFORE  
THE DATE OF THIS COVENANT**

3M Company and 3M Innovative Properties Company, their successors and assigns, hereby covenant not to assert any claim of patent infringement against Louis M. Gerson Company, Inc. or its customers under United States Patent Nos. 6,752,179 ("the '179 patent"); 6,488,058 ("the '058 patent"); 6,595,441 ("the '441 patent"); 4,971,251 ("the '251 patent"); 6,588,681 ("the '681 patent"); 4,936,511 ("the '511 patent"); 6,663,018 ("the '018 patent"); 6,796,514 ("the '514 patent"); 6,354,346 ("the '346 patent"); 5,425,404 ("the '404 patent"); 6,367,521 ("the '521 patent"); 6,450,214 ("the '214 patent"); 6,223,791 ("the '791 patent"); 5,954,273 ("the '273 patent"); and 5,826,795 ("the '795 patent") as they presently read, with respect to any paint system product currently used, manufactured, offered for sale, or sold by Louis M. Gerson Company, Inc., or any paint system product which was used, manufactured, offered for sale, or sold by the Louis M. Gerson Company, Inc. prior to the date of this covenant.

This covenant is limited to the '179; '058; '441; '251; '681; '511; '018; '514; '346; '404; '521; '214; '791; '273; and '795 patents as they presently read and does not apply to any other

patent, whether related or unrelated to the '179; '058; '441; '251; '681; '511; '018; '514; '346; '404; '521; '214; '791; '273; and '795 patents.

By its attorneys

Dated: December 7, 2004

/s/Frank E. Scherkenbach  
Frank E. Scherkenbach (BBO #653819)  
FISH & RICHARDSON P.C.  
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Boston, MA 02110  
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Attorney for Defendant  
3M COMPANY  
Attorney for 3M INNOVATIVE PROPERTIES  
COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing 3M'S COVENANT NOT TO SUE PLAINTIFF FOR INFRINGEMENT BY PAINT SYSTEM PRODUCTS OF THE '179; '058; '441; '251; '681; '511; '018; '514; '346; '404; '521; '214; '791; '273; AND '795 PATENTS AS THEY PRESENTLY READ FOR PRODUCTS MADE, USED, MARKETING, OFFERED FOR SALE, OR SOLD ON OR BEFORE THE DATE OF THIS COVENANT was served on counsel for Plaintiff via e-filing with the U.S.D.C., District of Massachusetts and U.S. mail on Robert L. Kann, Bromberg & Sunstein LLP, 125 Summer Street, Boston, MA 02110 on this 7<sup>th</sup> day of December, 2004.

/s/Kathleen J. Tobin  
Kathleen J. Tobin